

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**PRABHU CORPORATION**

**Plaintiff,**

**VS.**

**UNDERWRITERS AT LLOYD'S OF  
LONDON, SUBSCRIBING TO**

**POLICY NUMBER OUA30000446-00**

**Defendants.**

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**CASE NO.: 4:19-cv-3790**

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**DEFENDANT UNDERWRITERS AT LLOYD'S OF LONDON, SUBSCRIBING TO  
POLICY NUMBER OUA30000446-00'S NOTICE OF REMOVAL**

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Defendant, Underwriters at Lloyd's of London, Subscribing to Policy Number OUA30000446-00 ("Underwriters") files this Notice of Removal pursuant to 28 U.S.C. §§1441 and 1446(a).<sup>1</sup> Defendant removes this action to the United States District Court for the Southern District of Texas, Houston Division, and in support thereof, respectfully asserts the following:

**I.  
INTRODUCTION AND PROCEDURAL HISTORY**

1. This lawsuit stems from a dispute related to insurance coverage to the Plaintiff under Policy No. OUA30000446-00, for alleged damaged to property located at 2536 North Freeway, Houston, Texas 77009 allegedly resulting from Hurricane Harvey. On August 23, 2019, Prabhu Corporation ("Plaintiff") filed its Original Petition in the 333rd Judicial District Court of Harris County, Texas (Cause No. 2019-59032).<sup>2</sup> Plaintiff's Petition named Underwriters as a defendant

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<sup>1</sup> Plaintiff has been given notice of the filing of Underwriters' Notice of Removal. *See Exhibit B.*

<sup>2</sup> *See Exhibit A*, Plaintiff's Original Petition.

in the lawsuit.<sup>3</sup>

2. Plaintiff's Petition asserts the following causes of action against Underwriters, namely: breach of contract, breach of duty of good faith and fair dealing under the common law, violations of Texas Deceptive Trade Practices – Consumer Protection Act, §17.41, *et. seq.*, violations of the Texas Insurance Code, §541.060 *et. seq.* and §542.055, *et. seq.*, and a declaratory judgment action.<sup>4</sup> Plaintiff's claims are based upon the Defendant's alleged acts and/or omissions related to the investigation and indemnity for the Plaintiff's claim for damages allegedly sustained at the Plaintiff's property located at 2536 North Freeway, Houston, Texas 77009.<sup>5</sup>

3. Plaintiff served Underwriters via its authorized agent, Mendes and Mounts, LLP via certified mail, return receipt requested. Mendes and Mounts, LLP received and signed for receipt of service on September 5, 2019. The Harris County District Clerk received the return receipt on September 10, 2019.<sup>6</sup>

4. Defendant filed an Answer to Plaintiff's Original Petition in Harris County State Court on September 30, 2019.<sup>7</sup>

5. Counsel for the Defendant consents to the removal of this action pursuant to 28 U.S.C. § 1446(b)(2)(A).

## **II. TIMING OF REMOVAL**

6. Underwriters were served with Plaintiff's Original Petition and received notice of the suit on September 5, 2019. This Notice of Removal is being filed within thirty (30) days of service

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<sup>3</sup> *See id.*

<sup>4</sup> *Id.* at ¶¶ 17-46.

<sup>5</sup> *Id.*

<sup>6</sup> *See Exhibit G.*

<sup>7</sup> *See Exhibit C*, Defendants Underwriters' Original Answer.

and receipt by Defendant of a copy of the initial pleading setting forth the claim for relief upon which action is based, and is therefore, timely pursuant to 28 U.S.C. § 1446(b)(1).

**III.**  
**VENUE**

7. Under 28 U.S.C. §1441(a) and 1446(a), venue is proper in the United States District Court for the Southern District of Texas – Houston Division because the court occupies the district and division in which Plaintiff's lawsuit was filed.

**IV.**  
**BASES FOR REMOVAL**

8. Removal is proper on the following grounds:

A. Complete Diversity Between the Parties

Federal jurisdiction is based upon complete diversity of citizenship in accordance with 28 U.S.C. §1332. There is complete diversity among the parties at the time of removal. The only parties to this lawsuit are Plaintiff and Underwriters, which make the removal to federal court proper pursuant to 28 U.S.C. § 1332(a).

Plaintiff's Petition states that Plaintiff is a Texas corporation with its principal place of business in Houston, Harris County, Texas.

Policy Number OUA3000446-00 is underwritten 100% by Syndicate NVA 2007, which is a corporate organization, incorporated and domiciled in England and Wales, which is also its principal place of business. As a corporate entity, NVA 2007 has no individual or other names or members insuring the risk. Therefore, there is complete diversity, as Defendant is a citizen and has its principal place of business diverse from the Plaintiff.

B. The Amount in Controversy Exceeds \$75,000

The amount in controversy exceeds \$75,000, excluding interest and costs. *See* 28 U.S.C.

§1332(a). Plaintiff's Petition states that Plaintiff seeks monetary relief of over \$200,000.00, but not in excess of \$1,000,000.00.<sup>8</sup> Accordingly, all requirements are met for removal under 28 U.S.C. §1332(a) and §1446(b).

9. Copies of the pleadings and other filings in the state court suit are attached to this notice as required by 28 U.S.C. §1446(a) and the Southern District of Texas Local Rules.<sup>9</sup>

10. Underwriters will promptly serve a copy of this notice of removal on counsel for Plaintiff and will file a copy with the clerk of the Harris County District Court where the suit has been pending.

**V.**  
**JURY DEMAND**

11. Plaintiff demanded a jury trial in the state court suit.<sup>10</sup>

**VI.**  
**DOCUMENTS FILED WITH THIS NOTICE**

12. Pursuant to Local Rule 81, Underwriters attaches the following documents to this Notice of Removal:

**Exhibit A:** Plaintiff's Original Petition;

**Exhibit B:** Defendant Underwriters' Notice of Filing of Removal filed in state court;

**Exhibit C:** Defendant, Underwriters' at Lloyd's of London, Subscribing to Policy Number OUA30000446-00's Original Answer to Plaintiff's Original Petition;

**Exhibit D:** A List of all Counsel of Record, including addressees, telephone numbers, and parties represented in the state court case;

**Exhibit E:** An Index of matters being filed with the Notice of Removal;

**Exhibit F:** Docket Sheet from the state court lawsuit (Cause No. 2019-59032); and

**Exhibit G:** Copy of the following documents pertaining to service<sup>11</sup>:

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<sup>8</sup> See **Exhibit A**, Plaintiff's Original Petition at ¶ 40.

<sup>9</sup> See **Exhibits A, C, D, E, F and G**.

<sup>10</sup> See **Exhibit A**, Plaintiff's Original Petition at ¶ 47.

- Certified Mail Tracking #7018 1130 0002 1904 3800;
- Certified Mail Receipt; and
- Domestic Return Receipt signed upon receipt of service dated September 5, 2019, and returned to Harris County District clerk dated September 10, 2019.

**VII.**  
**PRAYER**

**WHEREFORE**, Defendant Underwriters at Lloyd's of London, Subscribing to Policy OUA3000466-00 remove this case from the 333rd Judicial District Court, Harris County, Texas to the Southern District of Texas – Houston Division.

Respectfully submitted,

**HOLMAN FENWICK WILLAN USA LLP**

/s/ Jacob C. Esparza

**Jacob C. Esparza**

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**ATTORNEYS FOR UNDERWRITERS AT  
LLOYD'S OF LONDON, SUBSCRIBING TO  
POLICY OUA30000466-00**

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<sup>11</sup> See **Exhibit G**, Underwriters' Registered Agent Mendes & Mount LLP was served and received a copy of the Plaintiff's pleading on September 5, 2019. A copy of an executed Affidavit of Service for Underwriters has yet to be filed with the Court.

**CERTIFICATE OF SERVICE**

A true and correct copy of Defendants' Notice of Removal was filed electronically with the United States District Court for the Southern District of Texas – Houston Division, with notice served via e-file and facsimile on this the 2nd day of October, 2019:

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/s/ Jacob C. Esparza  
Jacob C. Esparza